

Workers Compensation Guide for Work First Participants In Work Experience and Community Service Activities

Background

Federal law requires workers compensation coverage for individuals participating in Work Experience activities. NC Division of Social Services (NC DSS) elected to expand the coverage to include individuals participating in Community Service activities. NC DSS purchases workers compensation for both groups to ensure appropriate coverage. Key Risk is the insurance carrier for both groups.

Extent of Coverage

The workers compensation policy covers the costs of medical treatment associated with a compensable claim resulting from an accident while engaged in Work Experience and Community Service. The workers compensation policy does not cover injuries suffered by individuals who are not Work Experience or Community Service participants, even if the injury is the direct result of the Work First participant's action at the work site. The costs of medication and travel associated with the covered work site injury are included in the coverage. To the extent allowed by the Workers Compensation Act, injured Work Experience and Community Service participants can receive monetary compensation for the loss of limbs or other severe injuries.

The policy only covers injuries sustained at work sites located in North Carolina. Counties electing to develop work sites outside of the state must ensure that workers compensation coverage is available for Work Experience and Community Service participants.

Work First participants **are not** State employees. Work Experience and Community Service participants are not considered employees, do not earn wages, and are; therefore, not entitled to recovery under the North Carolina Workers' Compensation Act. Under ordinary circumstances, neither State nor local human/social services would be subject to any liability beyond the workers compensation coverage. In situations where the employer/work site sponsor operates in flagrant violation of health and safety laws, the courts have allowed individuals to file suit.

Workers compensation is the primary coverage for medical expenses resulting from work site injuries, not Medicaid. Therefore, workers compensation coverage is required to reimburse Medicaid for any amount of medical expenses Medicaid has paid (at least to the extent of the workers compensation coverage).

Claims Administration

The insurance carrier is Key Risk. The policy number is **992-444** and the North Carolina Department of Health and Human Services, Division of Social Services is the insured agency. When an injury occurs at a work experience site, call Key Risk's toll free telephone number, **1-866-847-8872**, to initiate the claims process. It is mandatory that an accident report be submitted to the NC Industrial Commission, **via the insurance carrier**, within five (5) working days of the "employers" (i.e. work site sponsor) knowledge of the accident. The accident report must include complete information as to the cause and nature of the accident and the nature and extent of the participant's injury. The statute of limitations on filing workers' compensation claims is two years after the accident.

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The North Carolina Division of Social Services does not discriminate against any person on the basis of race, color, national origin, disability, sex, religion or age in the admission, treatment, or participation in its programs, services and activities, or in employment.

Each local human/ social services agency must develop local procedures for administering workers compensation coverage for Work Experience and Community Service participants. It is strongly recommended that the administration of claims be a joint responsibility shared by the local Work First program, the local agency's Risk Management or other designated staff, and the work site sponsor. The support of Risk Management staff is invaluable as staff have considerable working knowledge of workers compensation law and reporting requirements. Local agencies may determine the level of participation by Risk Management.

For proper claims administration, frequent communication is essential. Work First staff, local agency Risk Management staff and other involved parties may need to meet to discuss the specific issues related to the nature and purpose of Work Experience and Community Service, the purpose of the coverage, and the claims reporting procedure. Topics of discussion should include but are not limited to:

- Reporting Requirements;
- Task assignment and the timeline for such tasks;
- Verification of participant's Work Experience/Community Service status and
- Forwarding medical bills and other expenses to the insurance carrier.

Roles and Responsibilities

There are variations in the way local agencies may choose to handle these issues; however, it is recommended agencies follow the procedures as outlined below to the greatest extent possible. The recommended procedures include the responsibilities typically carried out by the local agency's Work First staff, the work site sponsor as an "employer", and local agency's Risk Management or designated staff.

A. Local Human/ Social Services Agency (Work First Program)

1. Explain to Work Experience and Community Service participants, work site sponsors, the workers compensation coordinator, and others that workers compensation coverage is available;
2. Immediately notify all Work First staff of the flyer outlining the insurance carrier's reporting procedures and display in locations that are accessible to Work First Participants;
3. Provide the Work Experience and Community Service participants with a copy of the Workers Compensation Fraud Notice (DSS-5321);
4. Ensure all work site sponsors are aware and have a copy of the flyer (English and Spanish) showing the Key Risk Provider Network;
5. Assist the participant in obtaining appropriate medical care through the designated healthcare provider;
6. Verify the Work First participant is in Work Experience or Community Service through the appropriate agency records. This information will be conveyed to designated at the local agency, the work site sponsor, and the insurance carrier;
7. Contact the work site sponsor to ensure all procedures and policies have been followed;
8. Maintain copies of any workers compensation forms as a part of the participant's case record;
9. Notify NC DSS/ Economic and Family Services Section (Work First) by telephone, 919-527-6300, of the injury/claim within five (5) working days of when the local agency learns of the accident report; and
10. Ensure that a copy of the Report of Injuries Log (DSS-5322) is sent quarterly to the Economic and Family Services Section by the scheduled date. The local agency is

responsible for verifying the accuracy of information on the log prior to submission to Economic and Family Services/ Work First.

B. Work Site Sponsor

1. A mandatory safety orientation should be performed. The orientation should review with each Work Experience/ Community Service participant the work site safety policy rules and procedures prior to their beginning work;
2. Inform Work Experience/ Community Service participants to immediately report an accident;
3. Maintain an onsite listing (English and Spanish) of the Key Risk Provider Network;
4. Immediately notify the designated staff at the local agency by telephone of the accident/injury;
5. Assist the participant in obtaining appropriate medical care through the designated Provider Network;
6. In the event the work site sponsor must contact Key Risk Management directly because of death, paralysis, or serious injury, the work site sponsor must also inform local agency Work First staff that the report was made; and
7. Forward medical expenses/bills to the staff designated by the local agency.

C. Local Agency Risk Management or Designated Staff

1. Forward claim related costs to the insurance carrier for completion of necessary forms;
2. Serve as liaison between the insurance carrier and the participant; and
3. Assume primary responsibility for maintenance of the Report of Injuries Log. The designated staff will forward a copy of the accident log quarterly to the Work First staff person.

D. Work First Participant

1. Immediately give notice of the accident to the work site sponsor (supervisor) or as soon as possible after the accident occurs. The notification must occur within five (5) business days but no later more than 30 days after the accident;
2. Report all medical bills/expenses to the local agency's designated staff; and
3. Cooperate with the work site sponsor, the local human/social services agency and medical personnel in reporting medical expenses in a timely fashion, complying with medical treatment, etc.